In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 22, ORIGINAL

STATE OF SOUTH CAROLINA, PLAINTIFF

v.

NICHOLAS DEB. KATZENBACH, ATTORNEY GENERAL OF THE UNITED STATES, DEFENDANT

ANSWER

Nicholas deB. Katzenbach, Attorney General of the United States, for his answer to the Complaint herein:

1. Admits the allegations of the first, second, third, and fourth paragraphs of the Complaint.

2. Admits the allegations of paragraph 5 of the Complaint except denies that under the United States Constitution the prescription of registration and voting procedures for the inhabitants of South Carolina is within the exclusive province of the Plaintiff.

3. Admits, in response to paragraph 6 of the Complaint, that the Congress of the United States, acting under authority of the Fifteenth Amendment and of other provisions of the Constitution of the United States, enacted and the President of the United States on August 6, 1965, approved the Voting Rights Act of 1965, P.L. 89-110, and that Plaintiff has a

justiciable interest with respect to the application of the Voting Rights Act of 1965 (hereinafter called the Act), to registration and voting by the citizens of South Carolina.

4. Admits the allegations of paragraph 7 of the Complaint except denies the implication that the Act unconstitutionally dilutes the weight or value of the vote of Plaintiff's electorate.

5. Alleges insufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 8 of the Complaint, but admits that Plaintiff is a proper party to this action.

6. Admits the substantial accuracy of the statistics set forth in the first and fourth columns of Exhibit A to the Complaint, referred to in paragraph 9 of the Complaint, but alleges insufficient knowledge or information at this time to form a belief as to the accuracy of the other statistics set forth in Exhibit A.

7. Denies the allegations of paragraph 10 of the Complaint, but admits that the Act as applied to Plaintiff suspends for a time Plaintiff's power to administer qualifications for registration and rules for the conduct of federal, State, and local elections.

8. Admits, in response to paragraph 11 of the Complaint, that Plaintiff's constitution and laws require all applicants for voting registration to complete a written registration application substantially similar to that annexed as Exhibit B to the Complaint and require every applicant who does not satisfy a property qualification to demonstrate that he can both read and write any section of the State constitution submitted to him by the registrar, but alleges insufficient

knowledge or information at this time to form a belief as to the truth of the allegations with respect to the administration of the literacy test and registration form requirement.

9. Admits the allegations of paragraph 12 of the Complaint insofar as they set forth prerequisites for registration and voting established by Plaintiff's constitution and laws, but alleges insufficient knowledge or information to form a belief as to the truth of the allegation that such prerequisites materially affected the number and percentage of Plaintiff's inhabitants who participated in the election of November 3, 1964.

10. Admits the allegations of paragraph 13 of the Complaint insofar as they allege the requirement under Plaintiff's constitution and laws that Plaintiff's citizens must re-register or re-enroll every ten years to be eligible for continued voting and that the most recent such re-registration or re-enrollment occurred in 1957, but alleges insufficient knowledge or information to form a belief as to the truth of the allegation that the requirement of such re-registration or re-enrollment materially affected the number and percentage of Plaintiff's inhabitants who participated in the election of November 3, 1964.

11. Admits the substantial accuracy of the statistics set forth in the first and fourth columns of Exhibit C–1 to the Complaint, referred to in paragraph 14 of the Complaint, except the figure indicated for 1948 in the fourth column, but alleges insufficient knowledge or information at this time to form a belief as to the accuracy of the other statistics set forth in Exhibits C–1 and C–2 and alleges insufficient knowledge or in-

formation to form a belief as to the truth of the other allegations of paragraph 14 of the Complaint.

12. Admits the substantial accuracy of the statistics set forth in Exhibits D–1 and D–2 of the Complaint, referred to in paragraph 15 of the Complaint, but alleges insufficient knowledge or information to form a belief as to the truth of the other allegations of paragraph 15.

13. Denies the allegations of paragraphs 16 and 17 of the Complaint.

14. Alleges insufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 18 of the Complaint.

15. Alleges insufficient knowledge or information to form a belief as to the truth of the allegations of paragraph 19 of the Complaint, but denies that Plaintiff or her political subdivisions are "conclusively" presumed to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color and denies that the Act creates any "irrebutable" presumption with respect to Plaintiff.

16. Admits the allegations of paragraph 20 of the Complaint.

17. Denies, in response to paragraph 21 of the Complaint, that less than 50 per centum of the citizens over 21 years of age resident in Aroostook County, Maine, voted on November 3, 1964, and alleges that the Act has been invoked and applied by the United States with respect to Elmore County, Idaho, and every other State and political subdivision determined as of this date to fall within the terms of the Act.

18. Denies the legal conclusions set forth in paragraphs 22, 23, 24, 25, 26 and 27 of the Complaint, denies that the Act as applied to Plaintiff is unconstitional in any respect, denies that the Act is an inappropriate exercise of the powers granted Congress by the Fifteenth Amendment to the Constitution, denies that the Act creates any irrebutable presumption with respect to Plaintiff, her political subdivisions, officials or residents, but admits—

(a) that certain of the Act's restrictions and prohibitions are made applicable only to those States and political subdivisions which are determined by the Attorney General to have maintained on November 1, 1964, any test or device (as defined in the Act) as a prerequisite for voting or registration for voting and with respect to which the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or voted in the presidential election of November 1964;

(b) that the Act suspends Plaintiff's authority to prescribe or administer, as a qualification for the registration of her inhabitants for voting, any literacy tests until plaintiff has obtained a declaratory judgment that no such test or device has been used during the preceding five years for the purpose or with the effect of denying or abridging the right to vote on account of race or color as provided in Section 4(a) of the Act;

(c) that the Act suspends Plaintiff's power to amend or administer as amended any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from

that in force or effect on November 1, 1964, until and unless such qualification, prerequisite, standard, practice or procedure has been submitted to the Attorney General and the Attorney General has not interposed an objection thereto or the Plaintiff has obtained a declaratory judgment that such qualification, prerequisite, standard, practice or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color as provided in Section 5 of the Act or unless and until the Plaintiff has obtained a declaratory judgment as provided in Section 4(a) of the Act;

(d) that certain provisions of the Act apply to all of the Plaintiff's political subdivisions, even though some exceeded the registration and voting percentage quotas provided in the Act;

(e) that certain provisions of the Act provide that certain actions with respect to qualifications for registration and voting may be commenced solely in the United States District Court for the District of Columbia; and

(f) that the Act grants to certain of the Plaintiff's inhabitants the right to register and vote notwithstanding their non-compliance with certain tests and devices prescribed by Plaintiff.

Wherefore, Defendant prays that the Court sustain the constitutionality of the Voting Rights Act of 1965 and deny the relief sought by the Plaintiff.

THURGOOD MARSHALL,
Solicitor General.

NOVEMBER, 1965.

U.S. GOVERNMENT PRINTING OFFICE: 1965